
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

THOMAS THOMPSON,

Plaintiff,

versus

SERGEANT T. W. DAVIS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:11-CV-28

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Thomas Thompson, previously confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Sergeant T. W. Davis, Lieutenant Dees, Correctional Officer Johnson, Correctional Officer Nixon, Captain Tompkins, Major Bottoms, Warden D. Lorimier, and Senior Warden Morris.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends granting defendants' motion for summary judgment.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes

the objections are without merit. Although he filed a number of grievances and complaints, plaintiff did not exhaust his claims through both steps of the grievance procedure. Plaintiff filed a step one grievance about the alleged assault and failure to protect him from the assault, but he did not exhaust his claims by filing a step two grievance. Plaintiff's step two grievances are not related to the subject matter of this complaint. Instead, they concern disciplinary action and sanctions taken against him as a result of the incident. Because plaintiff did not exhaust administrative remedies, defendants are entitled to summary judgment.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Sherman, Texas, this 2nd day of October, 2012.

A handwritten signature in cursive script, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE